

EXHIBIT Y

1 Michael J. Bettinger, SBN 122196
mbettinger@sidley.com
2 Holly Hogan, SBN 238714
hhogan@sidley.com
3 Ezekiel L. Rauscher, SBN 269141
erauscher@sidley.com
4 SIDLEY AUSTIN LLP
5 555 California Street, Suite 2000
San Francisco, California 94104
6 Telephone: +1 415 772-1200
Facsimile: +1 415 772-7400

7 Attorneys for THE REALREAL, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

11 | ZEE APPAREL, INC.,

Case No. 16-cv-00755-HSG

12 Plaintiff,

13 | v.

14 | THE REALREAL, INC.,

15 | Defendant.

**THE REALREAL, INC.'S NOTICE OF
DEPOSITION OF ZEE APPAREL
PURSUANT TO RULE 30(b)(6)**

**Oct. 19, 2016, 9:00 a.m.
Le Centre Sheraton Montreal Hotel
1201 Boulevard René-Lévesque Ouest
Montréal, QC H3B 2L7**

THE REALREAL, INC.,

Counterclaimant,

v.

ZEE APPAREL, INC.

Counterdefendant.



1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to Rule¹ 30(b)(6), Defendant and Counterclaimant
3 The RealReal, Inc. ("The RealReal") will take the oral deposition of the corporate representative of
4 Zee Apparel, Inc. ("Zee Apparel") with respect to the matters described on Exhibit A attached
5 hereto. The deposition will begin October 19, 2016 at 9:00 a.m. local time at Le Centre Sheraton
6 Montreal Hotel, 1201 Boulevard René-Lévesque Ouest Montréal, QC H3B 2L7. The deposition will
7 be taken before a qualified notary public or before some other officer authorized by law to
8 administer oaths and will be recorded by stenographic means. The deposition will continue from
9 day to day until completed. Pursuant to Rule 30(b)(6), Zee Apparel shall designate one or more
10 officers, directors, managing agents, or other persons to testify on its behalf concerning the matters
11 set forth in Exhibit A.

12

13 **DEFINITIONS**

14 1. "PERSONS" means any single or group of human beings or legal entities, including
15 but not limited to corporations, partnerships, limited liability companies, associations, trusts,
16 organizations, or government bodies.

17 2. "RETAINED GOODS" means the products described in paragraph 24 of YOUR
18 Complaint, which states: "The product units that TRR failed and refused to return to ZEE APPAREL
19 include, but are not limited to, more than sixty (60) handbags and more than twenty (20) scarves."

20 3. "RETURNED GOODS" means the goods described in paragraphs 17-19 of YOUR
21 Complaint as having been returned by The RealReal to ZEE APPAREL as follows: "It was not until
22 December 22, 2015, that TRR returned any product units to ZEE APPAREL, and on that date TRR
23 returned only some scarves, which were among the lowest valued items that ZEE APPAREL had on
24 consignment with TRR. . . . Thereafter, on December 30, 2015, TRR returned some sunglasses and
25 no more than two additional scarves, these products were also among the lowest valued items that
26 ZEE APPAREL had on consignment with TRR. . . . In two further shipments multiple weeks later,

27 ¹ All references to "Rules" herein are to the Federal Rules of Civil Procedure, unless otherwise
28 noted.

1 one on or around January 21, 2016, and the other on or around January 22, 2016, TRR returned to
2 ZEE APPAREL approximately fourteen (14) Givenchy-brand handbags and one pair of Dior-brand
3 sunglasses.” “RETURNED GOODS” also includes any goods that The RealReal returned to Zee
4 Apparel after determining them to be authentic after it returned the goods listed above, including the
5 Fendi navy scarf set returned to Zee Apparel on or about August 4, 2016.

6 4. “ZEE APPAREL” “YOU,” and “YOUR” mean Zee Apparel Inc. (whether d/b/a Shop
7 Under or otherwise), its predecessors and successors, its past and present parents, subsidiaries, and
8 divisions, any entities in which it has or had an interest, its past and present directors, officers,
9 employees, and agents, and past and present representatives (including consultants and attorneys) of
10 any of the foregoing, including any and all persons acting or purporting to act, or who have acted or
11 purported to act, on behalf of any of the foregoing.

12 5. The terms “and,” “or,” and “and/or” shall be construed broadly, both conjunctively
13 and disjunctively, to bring within the scope of each Request all responses that might otherwise be
14 construed to be outside of its scope.

15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 EXHIBIT A
2

TOPICS ON WHICH EXAMINATION IS REQUESTED

3 1. The origin of the RETAINED GOODS, including but not limited to when, where, and
4 by whom the RETAINED GOODS were manufactured.

5 2. ZEE APPAREL's acquisition of the RETAINED GOODS, including but not limited
6 to when, where, for what consideration, under what agreement or terms, subject to what
7 representations or guarantees, and from whom ZEE APPAREL acquired the RETAINED GOODS.

8 3. The PERSON(S) from whom ZEE APPAREL acquired the RETAINED GOODS,
9 including but not limited to whether the PERSON(S) have or have been accused of trafficking in
10 counterfeit goods, when and how the ZEE APPAREL's relationship the PERSON(S) began, and
11 whether ZEE APPAREL had any reason to believe that the PERSON(S) were involved in
12 counterfeiting.

13 4. ZEE APPAREL's communications with the PERSON(S) from whom ZEE
14 APPAREL acquired the RETAINED GOODS.

15 5. Whether ZEE APPAREL believed that the RETAINED GOODS were counterfeit or
16 were not counterfeit at the time it shipped them to The RealReal, and the basis for that belief.

17 6. ZEE APPAREL's efforts to determine whether the RETAINED GOODS are
18 counterfeit or are not counterfeit.

19 7. All evidence that ZEE APPAREL relied on to determine whether the RETAINED
20 GOODS are counterfeit or are not counterfeit.

21 8. ZEE APPAREL's efforts to determine whether handbags, scarves, and/or any other
22 items that were made or purportedly made by the same manufacturer(s) that made the RETAINED
23 GOODS or that ZEE APPAREL acquired from the same PERSON(S) from whom ZEE APPAREL
24 acquired the RETAINED GOODS are counterfeit or are not counterfeit.

25 9. All evidence ZEE APPAREL relied on to determine whether handbags, scarves,
26 and/or any other items that were made or purportedly made by the same manufacturer(s) that made
27 the RETAINED GOODS or that ZEE APPAREL acquired from the same PERSON(S) from whom
28 ZEE APPAREL acquired the RETAINED GOODS are counterfeit or are not counterfeit.

1 10. ZEE APPAREL's communications about the RETAINED GOODS.

2 11. ZEE APPAREL's sale, attempted sale, consignment, attempted consignment, and/or
3 other transfer of physical possession or any legal right related to the RETAINED GOODS and/or the
4 RETURNED GOODS, including but not limited to end-customer complaints and/or complaints from
5 potential or actual consignors and/or resellers.

6 12. ZEE APPAREL's sale, attempted sale, consignment, attempted consignment, and/or
7 other transfer of physical possession or any legal right related to handbags, scarves, and/or any other
8 items that were made or purportedly made by the same manufacturer(s) that made the RETAINED
9 GOODS or that ZEE APPAREL acquired from the same PERSON(S) from whom ZEE APPAREL
10 acquired the RETAINED GOODS, including but not limited to end-customer complaints and/or
11 complaints from potential or actual consignors and/or resellers.

12 13. The value of the RETAINED GOODS and/or the RETURNED GOODS.

13 14. Civil or criminal complaints or allegations against ZEE APPAREL relating to
14 trafficking of counterfeit goods.

15 15. Limitations on ZEE APPAREL's business activities based on any alleged or actual
16 violations of civil or criminal statutes or laws.

17 16. ZEE APPAREL's organizational structure, including its ownership, employees, and
18 the duties of its employees.

19 17. ZEE APPAREL's business activities in California.

20 18. ZEE APPAREL's use of The RealReal's web-site.

21 19. ZEE APPAREL's entry into a contract with The RealReal.

22 20. ZEE APPAREL's communications with The RealReal, including communications
23 about the RETAINED GOODS and/or the RETURNED GOODS.

24 21. The factual basis for ZEE APPAREL's allegation in paragraph 33 of its Complaint
25 that "at least three (3) Givenchy-brand handbags and a pair of Dior-brand sunglasses [], upon
26 information and belief, were damaged while in The RealReal's physical possession."

27 22. What became of the items described in paragraph 33 of its Complaint as "at least
28 three (3) Givenchy-brand handbags and a pair of Dior-brand sunglasses that, upon information and

1 belief, were damaged while in The RealReal's physical possession" after The RealReal returned the
2 items to ZEE APPAREL, including, for example, whether the items were sold or consigned to others

3 23. The factual basis for ZEE APPAREL's allegation in paragraph 22 of its Complaint
4 that it "suffer[ed] damages, including, but not limited to, the loss of profits arising from lost holiday
5 season sales."

6 24. The factual basis for ZEE APPAREL's denial of paragraphs 64 and 65 of The
7 RealReal's Counterclaims, which describe news reports of Sean Erez's criminal history.

8 25. The factual basis for ZEE APPAREL's partial denial of paragraph 98 of The
9 RealReal's Counterclaims, which describes the terms of the agreement between ZEE APPAREL and
10 The RealReal.

11 26. The factual basis for ZEE APPAREL's denial of paragraph 101 of The RealReal's
12 Counterclaims, which alleges that ZEE APPAREL breached the agreement between ZEE APPAREL
13 and The RealReal by, among other things, intentionally shipping counterfeit items to The RealReal.

14 27. The factual basis basis for ZEE APPAREL's denial of paragraph 107 of The
15 RealReal's Counterclaims, which alleges that ZEE APPAREL unfairly interfered with The
16 RealReal's performance under the agreement, and failed to cooperate with The RealReal in its
17 attempts to perform under the agreement.

18 28. ZEE APPAREL's responses to The RealReal's written discovery requests.

19 29. ZEE APPAREL's document retention policies and collection and production of
20 documents in this litigation.

21 Dated: Oct. 11, 2016

22 SIDLEY AUSTIN LLP

24 By: /s/ Ezekiel Rauscher

25 Ezekiel Rauscher

26 Attorneys for THE REALREAL, INC.

PROOF OF SERVICE

STATE OF CALIFORNIA) SS
 COUNTY OF SAN FRANCISCO)

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 555 California Street Suite 2000, San Francisco, California 94104.

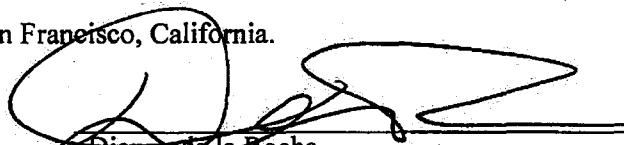
On October 11, 2016, I served the foregoing document(s) described as **THE REAL REAL, INC.'S NOTICE OF DEPOSITION OF ZEE APPAREL PURSUANT TO RULE 30(b)(1)** on all interested parties in this action as follows:

LUCAS SAVITZ P.L. Hal M. Lucas (<i>Admitted pro hac vice</i>) 169 East Flagler Street, Suite 1534 Miami, FL 33131 Telephone: (305) 7 67-1450 Facsimile: (305) 767-1453 hlucas@lucassavitz.com <i>Attorney for Plaintiff and Counterdefendant</i>	SINGH, SINGH & TRAUBEN, LLP Michael A. Trauben (SBN: 277557) 400 S. Beverly Drive, Suite 240 Beverly Hills, CA 90212 Telephone: (310) 856-9705 Facsimile: (888) 734-3555 mtrauben@singhtraubenlaw.com <i>Attorney for Plaintiff and Counterdefendant</i>
---	---

(E-MAIL) I caused the document(s) to be delivered by e-mail to each interested party as shown above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 11, 2016, at San Francisco, California.



Diane de la Rocha